

**Remarks/Arguments:**

Claims 1-6, 11, 13 and 15-21 have been amended. No new matter is introduced herein. Claims 1-7 and 11-21 are pending.

The Office Action summary asserts that claims 8-10 are withdrawn from consideration. Applicants respectfully note that claims 8-10 were not subject to a restriction requirement. Instead, claims 8-10 were cancelled in a Preliminary Amendment dated July 13, 2005. Accordingly, Applicants respectfully request that the Examiner confirm that claims 8-10 are cancelled, as opposed to being withdrawn from consideration.

At paragraph 3, page 2 of the Office Action, the Examiner asserts that no English translation of the IDS references was provided and that he "was not able to discern if the IDS references were related to the application." Applicants respectfully note that the IDS submitted on July 13, 2005 included English language abstracts or a "concise explanation" under 37 CFR §1.98(a)(3) for the Japanese references which were not in the English language. Applicants also note that a reference which complies with the requirements of 37 CFR §1.97 and 37 CFR §1.98, but which is in a non-English language will be considered in view of the concise explanation submitted and insofar as it is understood on its face, e.g. drawings. (MPEP §609.05(b)). Accordingly, Applicants respectfully request that the submitted IDS references be considered.

Claims 1, 11 and 15-18 have been amended to clarify that an electronic water mark detection section (step) detects only a predetermined certain bit of digital data or only a predetermined copy control information portion. In addition, claims 1, 11 and 15 have been amended to recite an electronic watermark detection section, a recording section and a playback section. Basis for the amendments can be found, for example, at page 45, line 21 - page 46, line 2 and page 50, lines 17-21. Claim 16 has also been amended to correct a typographical error. Claims 2-6, 13 and 19-21 have been amended to correspond to respective claims 1, 11 and 15.

Claims 1, 2, 4, 6, 7 and 11-21 have been rejected under 35 U.S.C. §102(e) as being anticipated by Rhoads et al. (U.S. 6,442,285). It is respectfully submitted, however, that these claims are patentable over the cited art for the reasons set forth below.

Claim 1, as amended, includes features neither disclosed nor suggested by the cited art, namely:

... an electronic watermark detection section which detects only a predetermined certain bit of digital data in said copy control information out of a content over which an electronic watermark expressing said copy control information is superimposed ...

a recording section which records said content in accordance with a detection result obtained by said electronic watermark detection section. (Emphasis added).

Claim 16 includes a similar recitation.

Rhoads et al. disclose, in Figs. 1 and 2, a music distribution process for physically and electronically distributing an artist's music (Col. 3, lines 30-61). Music appliances can respond restrictively to embedded watermark data to set limits on use of music, including user restrictions such as "do not copy," "copy once only" and "unrestricted copying permitted." (Col. 13, lines 27-34 and Col. 13, lines 46-52). To detect watermark data, the "device simply examines one or more bits in the watermark data, and permits (or refuses) an operation based on the value thereof." (Col. 13, lines 53-58).

Rhoads et al., however, do not teach an electronic watermark detection section (step) which detects only a predetermined certain bit of digital data in copy control information which is formed by plural bits of digital data and indicative of plural types of copy control, as required by claims 1 and 16 (emphasis added). Rhoads et al. only teach examining "one or more bits" in the watermark data to permit or refuse an operation. Rhoads et al. are silent regarding detecting only a predetermined certain bit. Thus, Rhoads et al. do not include all of the features of claims 1 or 16. Accordingly, allowance of claims 1 and 16 is respectfully requested.

Claims 2, 4, 6, 7 and 19 include all of the features of claim 1 from which they depend. Accordingly, these claims are also patentable over the cited art.

Claim 11, as amended, includes features neither disclosed nor suggested by the cited art. Namely:

... an electronic watermark detection section which does not detect said copy control information out of an SDMI-protected content ... when said content is to be played back, but when an SDMI-unprotected content, ... , is to be played back, detects only a predetermined copy control information portion of said copy control information out of said content over which an electronic watermark expressing said copy control information is superimposed ...

... a playback section which plays back said content when playback of said SDMI-protected content is desired, and plays back said content in accordance with a detection result obtained by said electronic watermark detection section when playback of said SDMI-unprotected content is desired.  
(Emphasis added).

Claim 17 includes a similar recitation.

Rhoads et al. are described above. Rhoads et al. do not disclose or suggest that an electronic watermark detection section (step): 1) does not detect copy control information for SDMI-protected content when the content is to be played back and 2) detects only a predetermined copy control information portion of the copy control information when content other than SDMI-protected content is to be played back, as required by claims 11 and 17 (emphasis added). Rhoads et al. are silent regarding these features. Rhoads et al. only teach examining one or more bits in watermark data to permit or refuse an operation. Thus, Rhoads et al. do not include all of the features of claims 11 or 17. Accordingly, allowance of claims 11 and 17 is respectfully requested.

Claims 12-14 and 20 include all of the features of claim 11 from which they depend. Accordingly, these claims are also patentable over the cited art.

Claim 15, as amended, includes features neither disclosed nor suggested by the cited art, namely:

... for recording of said content, said electronic watermark detection section detects only a predetermined copy control information portion of said copy control information out of said content over which the electronic watermark expressing said copy control information is superimposed, and ...

... for playback of said content, said electronic watermark detection section detects all of said copy control information out of said content over which the electronic watermark expressing said copy control information is superimposed. (Emphasis Added).

Claim 18 includes a similar recitation.

Rhoads et al. are described above. Rhoads et al. do not disclose or suggest that: 1) for recording, the electronic watermark detection section (step) detects only a predetermined copy control information portion of the copy control information and 2) for playback, the electronic watermark detection section (step) detects all of the copy control information, as required by claims 15 and 18 (emphasis added). Rhoads et al. are silent regarding these features. Rhoads et al. only teach examining one or more bits in the watermark data to permit or refuse an operation. Thus, Rhoads et al. do not include all of the features of claims 15 or 18. Accordingly, allowance of claims 15 and 18 is respectfully requested.

Claim 21 includes all of the features of claim 15 from which it depends. Accordingly, claim 21 is also patentable over the cited art.

Claims 3 and 5 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Rhoads et al. in view of Maes et al. (U.S. 7,310,819). Claims 3 and 5, however, include all of the features of claim 1 from which they depend. Maes et al. do not make up for the deficiencies of Rhoads et al. because they do not disclose or suggest an electronic watermark detection section which detects only a predetermined certain bit of digital data in copy control information, as required by claim 1. Accordingly, claims 3 and 5 are also patentable over the cited art.

Application No.: 10/541,997  
Amendment Dated March 26, 2009  
Reply to Office Action of December 30, 2008

MTS-3564US

In view of the amendments and arguments set forth above, the above-identified application is in condition for allowance which action is respectfully requested.

Respectfully submitted,

RatnerPrestia



Jacques L. Etkowicz, Reg. No. 41,738  
Attorney for Applicants

DMG/so

Dated: March 26, 2009

P.O. Box 980  
Valley Forge, PA 19482  
(610) 407-0700

MJC\_389074\_1